

Health Care Financing Administration, HHS

§ 421.5

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AUTHORITY: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

SOURCE: 45 FR 42179, June 23, 1980, unless otherwise noted.

Subpart A—Scope, Definitions, and General Provisions

§ 421.1 Basis and scope.

(a) This part is based on the indicated provisions of the following sections of the Act:

1124—Requirements for disclosure of certain information.

1816 and 1842—Use of organizations and agencies in making Medicare payments to providers and suppliers of services.

(b) Section 421.118 is also based on 42 U.S.C.1395b-1(a)(1)(F), which authorizes demonstration projects involving intermediary agreements and carrier contracts.

(c) The provisions of this part apply to agreements with Part A (Hospital Insurance) intermediaries and contracts with Part B (Supplementary Medical Insurance) carriers. They also state that HCFA may perform certain functions directly or by contract. They specify criteria and standards to be used in selecting intermediaries and evaluating their performance, in assigning or reassigning a provider or providers to particular intermediaries, and in designating regional or national intermediaries for certain classes of providers. The provisions set forth the instances where there is the opportunity for a hearing for intermediaries and carriers affected by certain adverse actions. In some circumstances, the adversely affected intermediaries may request a judicial review of hearings decisions on—

(1) Assignment or reassignment of a provider or providers; or

(2) Designation of an intermediary or intermediaries to serve a class of providers.

[49 FR 3659, Jan. 30, 1984, as amended at 60 FR 50442, Sept. 29, 1995]

§ 421.3 Definitions.

Intermediary means an entity that has a contract with HCFA to determine and make Medicare payments for Part A or Part B benefits payable on a cost basis (or under the Prospective Payment System for hospitals) and to perform other related functions. For purposes of designating regional or alternative regional intermediaries for home health agencies and of designating intermediaries for hospices under § 421.117 as well as for applying the performance criteria in § 421.120 and the performance standards in § 421.122 and any adverse action resulting from such application, the term intermediary also means a Blue Cross Plan which has entered into a subcontract approved by HCFA with the Blue Cross and Blue Shield Association to perform intermediary functions.

[59 FR 681, Jan. 6, 1994]

§ 421.5 General provisions.

(a) *Competitive bidding not required for carriers.* HCFA may enter into contracts with carriers, or with intermediaries to act as carriers in certain circumstances, without regard to section 3709 of the U.S. Revised Statutes or any other provision of law that requires competitive bidding.

(b) *Indemnification of intermediaries and carriers.* Intermediaries and carriers act on behalf of HCFA in carrying out certain administrative responsibilities that the law imposes. Accordingly, their agreements and contracts contain clauses providing for indemnification with respect to actions taken on behalf of HCFA and HCFA is the real party of interest in any litigation involving the administration of the program.

(c) *Use of intermediaries to perform carrier functions.* HCFA may contract with an intermediary to perform carrier functions with respect to services for which Part B payment is made to a provider.